

Under Sheriff's (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

1. Appointment of high sheriff not to be effected.
2. Appointment of under sheriff.
3. Tenure of office.
4. Under sheriff to devote whole time to duties of office.
5. Powers and duties of under sheriff.
6. Security.
7. All fees, poundage, &c. received by under sheriff to be paid into the Exchequer.
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9. Remuneration of under sheriff.
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11. Sheriff to return and file any writ of execution. On filing to pay poundage and fees by stamps.
12. Penalty for failing to return writs.
13. Sheriff to return and file civil bill decrees.
14. Penalty for failing to return civil bill decrees.
15. Under sheriff to keep ejectment book. And writ, decree, and order book.
16. Under sheriff to act in name of and be under same liability as high sheriff was heretofore.
17. Clerk to under sheriff.
18. Appointment of bailiffs.
19. Under sheriff to have benefit of Public Authorities Protection Act, 1893.
- 20.
21. May be appointed to more counties than one.
22. Power to make rules.
23. Short title and commencement of Act.
24. Extent of Act.

[Bill 236.]



A
B I L L

TO

Regulate the appointment, duties, and remuneration
of Under Sheriffs in Ireland. A.D. 1906.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Nothing in this Act shall affect the appointment to the office of high sheriff, which shall continue to be made as heretofore. Appointment of high sheriff not to be affected.

2. After the commencement of this Act the Lord Lieutenant shall appoint a fit and proper person to the office of under sheriff in every county and county of a town or city to which this Act applies, and such under sheriff shall no longer be appointed by the high sheriff. If the person then holding the office of under sheriff for any county, counties, or county of a town or city shall have held such office during the two years immediately preceding the passing of this Act, and shall be willing to accept the office of under sheriff under this Act, the lord lieutenant shall appoint such person to the office of under sheriff of such county, counties, or county of a town or city. If such person shall refuse to accept such appointment, the lord lieutenant shall appoint some other fit and proper person to be the under sheriff of such county or county of a town or city. The first under sheriffs appointed under this Act shall perform the duties of under sheriff from the *first day of January next after the commencement of this Act*, and up to the said first day of January the under sheriffs existing at the time of the commencement of this Act shall perform the said duties. Appointment of under sheriff.

3. Every under sheriff appointed under the provisions of this Act shall hold such office and perform the duties thereof for the county or county of a town or city for which he shall be appointed Tenure of office.

[Bill 236.]

A 2

A.D. 1905. — until he shall die or resign, or be removed for misconduct or incapacity by the Lord Chancellor, and whenever such office shall become vacant, the lord lieutenant shall appoint a fit and proper person to the same.

Under sheriff
to devote
whole time
to duties of
office.

4. Every person appointed to the office of under sheriff shall be deemed to be an officer serving in the permanent civil service of the State, and shall be bound to devote his whole time to the duties of his office, provided that any under sheriff, being an attorney or solicitor, or holding any other office or appointment at the time of the passing of this Act, may, on accepting any such office of under sheriff, elect to continue to practice as an attorney or solicitor, or hold such office, anything in this Act to the contrary notwithstanding; but in the event of his so electing he shall not be entitled to any superannuation allowance or pension.

Powers and
duties of
under sheriff.

5. Every person who shall be appointed to the office of under sheriff for any county or county of a town or city shall have and exercise all powers, jurisdictions, and authorities and be subject to the like obligations as if he were an under sheriff acting under a deputation from the high sheriff previous to the passing of this Act.

Security.

6. Every person appointed to the office of under sheriff shall, before entering upon the duties of such office, give security for the due discharge of the duties of the office in such sum and in such manner as the Lord Chancellor, with the consent of the Treasury, may by order from time to time appoint.

All fees,
poundage,
&c., received
by under
sheriff to be
paid into the
Exchequer.

7. All fees, poundage, or remuneration heretofore leviable by or payable to any sheriff or under sheriff under or in respect of any writ of execution or civil bill decrees shall be levied and paid as heretofore, and shall be payable by the sheriff or under sheriff into the receipt of His Majesty's Exchequer, and shall be taken by stamps.

Pension.

8. The lord lieutenant may, with the approval of the Treasury, grant to any under sheriff appointed under this Act, upon his retirement from office by reason of age or infirmity, a pension the amount of which shall be ascertained and determined in respect of his service in such office according to the principles of the Superannuation Act, 1859, and any Acts amending the same, and shall be subject, so far as they can apply, to the conditions and provisions of the said Act, such pension to be calculated upon the number of years he has served as under sheriff, and to be payable out of moneys to be from time to time provided by Parliament.

9. *The Treasury shall, out of such funds as may from time to time be provided by Parliament, make the following payments in each and every year:—*

A.D. 1905.

Remuneration of under sheriff.

5 (1) *To each under sheriff such sum as may be ascertained to be equivalent to the average yearly receipts for the ten years immediately preceding the commencement of this Act received by him or his predecessors in or on account of the execution of their office, including and duly taking into consideration the repeal of Schedule B. Part I. of*
 10 *the Civil Bill Courts Procedure (Amendment) Act, 1884, and also the decision in re Bailies prepayment under section sixteen of the Juries Act (Ireland), 1871:*

15 (2) *And in addition such sums as may from time to time be ascertained as the actual expenses incurred and paid by the under sheriffs for stationery, stationery, printing, and postage, and in the carrying out of capital sentences upon criminals in the execution of their office, the amounts thereof to be ascertained in such manner as the Treasury may determine.*

20 10. Every under sheriff appointed under this Act shall, whenever required so to do, prepare, fill up, and transmit to the chief or under secretary to the lord lieutenant or to such other person as the chief or under secretary shall appoint, such schedules, returns, and information relating to the business transacted in his office as
 25 shall from time to time be required by the chief or under secretary in accordance with the provision in this Act contained.

Under sheriff to make returns.

30 11. Within three weeks after any writ of execution shall have been wholly executed or fully satisfied by the levy made thereunder by any under sheriff, or within one week after a notice requiring any writ of execution to be forthwith returned shall have been delivered at the office of any under sheriff or of his returning officer by any party entitled to demand the same to be returned, the under
 35 sheriff shall file any such writ with the proper officer of the division of the high court of justice in Ireland from which the same was issued, with the sheriff's return thereto endorsed thereon, stating whether the said writ has been wholly executed or has been fully satisfied by the levy made by him thereunder, and if so, the date of such execution or such levy, and if the said return is made after the delivery of a notice to him requiring the said writ to be returned
 40 stating the date of the delivery of such notice, and in all cases setting forth the several amounts (if any) by him levied under the

Sheriff to return and file any writ of execution.

A.D. 1908.

On filing to
pay pound-
age and fees
by stamps.

writ for debt, poundage, or fees, or by him received in respect of the same, and all such poundage and fees shall thereupon be paid by him by means of stamps impressed on or attached to such writ as the Treasury may from time to time require. The notice in this section mentioned shall not be served until after the expiration of *two months* from the date of the lodgment of the writ of execution with the sheriff's returning officer.

Penalty for
failing to
return writs.

12. If any under sheriff shall fail to return and file with the proper officer of the High Court within the period hereinbefore prescribed, any writ of execution which has been wholly executed or has been completely satisfied by the levy made thereunder, or which has by notice delivered in the prescribed manner been required to be returned as aforesaid, such under sheriff shall become liable to a penalty of *five pounds*, to be recoverable by civil bill and without further notice by the party at whose suit said writ was obtained as and for liquidated damages, and the right to sue for said penalty as aforesaid shall be in addition to and irrespective of any claim or right of action which such party may have against any under sheriff for damages for negligence in not executing said writ, or in delaying thereof. Upon hearing of any civil bill for the said amount of said penalty as aforesaid the production of a certificate of the proper officer of the High Court that the said writ referred to has not been filed, shall be sufficient proof of same: Provided, however, in case the writ of execution is for the recovery of a sum, inclusive of costs, of less than five pounds, the penalty recoverable shall not exceed the amount in said writ :

Provided always, that if upon hearing of a civil bill for the amount of said penalty as aforesaid, the county court judge shall be of opinion that the omission to file any such writ of execution as aforesaid was not due to the negligence or default of the under sheriff, he may make such order as the justice of the case may require, provided always, that nothing herein contained shall exempt any under sheriff from liability to return and file any such writ of execution, but every under sheriff who shall fail to comply with the provisions herein contained shall, in addition to his liability to the said penalty of five pounds as aforesaid, be liable also to pay such fine as a judge of the High Court shall, on the application of any party aggrieved, deem it reasonable to impose on the under sheriff.

Sheriff to
return and
file civil bill
decrees.

13. Within *three weeks* after any civil bill decree shall have been wholly executed or fully satisfied by the levy made thereunder by any under sheriff, or within *one week* after a notice

A.D. 1906.

requiring any civil bill decree to be forthwith returned shall have been delivered at the office of the under sheriff, by any party named in the said decree, the under sheriff shall file any such civil bill decree with the clerk of the Crown and peace of the county
5 from the county court of which the same has been issued with his return thereto endorsed thereon, stating whether the said decree has been wholly executed or has been fully satisfied by the levy made thereunder, and if so, the date of such execution or such levy, and if the said return is made after the delivery of a notice to him
10 requiring the said decree to be returned, stating the date of the delivery of such notices, and in all cases setting forth the several amounts (if any) by him levied under the decree for debt, poundage or fees, or by him received in respect of same and all such poundage and fees shall thereupon be paid by him by means of
15 stamps to be impressed or attached to such decree as the Treasury may from time to time require.

The notice in this section mentioned shall not be served until after the expiration of a period of *two months* from the date of the lodgment of the civil bill decree with the sheriff. A certified
20 copy of the civil bill decree filed as in this section provided shall be sufficient for all purposes where the production of the original decree is necessary in any subsequent proceedings before the court.

14. If any under sheriff shall fail to return and file with the said clerk of the Crown and peace within the period hereinbefore
25 prescribed, any civil bill decree which has been wholly executed or has been completely satisfied by the levy made thereunder or which has, by notice delivered in the prescribed manner, been required to be returned as aforesaid, such under sheriff shall become liable to a
30 penalty of *five pounds* to be recoverable by the party who obtained the said civil bill decree as and for liquidated damages, and the right to sue for said penalty as aforesaid shall be in addition to and irrespective of any claim or right of action which such party may have against any under sheriff for damages for negligence in not
35 executing said civil bill decree, or in delaying the execution thereof. Upon hearing of any civil bill for the said amount of said penalty as aforesaid, the production of a certificate of the clerk of the Crown and peace that the civil bill decree referred to has not been filed shall be sufficient proof of same: Provided, however, in
40 case the civil bill decree is for the recovery of a sum inclusive of costs of less than five pounds the penalty recoverable shall not

Penalty for failing to return civil bill decrees.

A.D. 1805.

exceed the amount of the said decree: Provided always that, upon hearing of said civil bill for the amount of the said penalty as aforesaid, the county court judge shall be of opinion that the omission to file any such decree as aforesaid was not due to the negligence or default of the under sheriff he may make such order as the justice of the case may require: Provided always that nothing herein contained shall exempt any under sheriff from liability to return and file any civil bill decree, but every under sheriff who shall fail to comply with the provisions herein contained shall, in addition to his liability to the said penalty of five pounds as aforesaid, be liable also to pay such fine as the county court judge shall, on the application of any party aggrieved, deem it reasonable to impose on the under sheriff. The term civil bill decree in this Act shall include any order, renewal, dismiss, affirmance, or reversal of a county court.

Under sheriff
to keep
ejectment
book.

15. The under sheriff for each county shall enter in a book to be kept by him for that purpose the several writs of possession and decrees in ejectment which shall have been delivered to the sheriff for execution, specifying the names of the parties therein, the names of the lands and the barony in which the same are situated, the date of the issue of every such writ or of every such decree, and the date at which the same was delivered to him for execution, and in cases of non-payment of rent the sum stated in such writ to be the amount of rent due or ascertained by such decree as due for rent, and shall state in such book the time when such writ or decree shall have been executed, or, if not executed, the cause of the non-execution thereof, and the amount of fees received by the under sheriff, and from whom received, for executing any such writ or decree, and the mode in which the amount of such fees has been returned and filed with the return thereon endorsed; and the under sheriff shall also enter in a book the several writs and civil bill decrees, other than those last mentioned, given to the sheriff for execution, specifying the names of the parties therein, the sums due on foot thereof, as stated by the person delivering the same, the precise time and hour at which such writs or decrees were delivered to him for execution, such time and hour to be in all cases endorsed by him on the said writs and decrees, and shall enter in the said book the time at which any such writ or decree was executed, and the sums (if any) levied or received thereunder for debt, poundage, or fees, and the mode in which such sums have been applied, and if such writ or decree shall not have been

And writ,
decree, and
order book.

executed the cause of the non-execution thereof, and the date when any such writ or decree shall have been returned and filed, with the return thereon endorsed. A.D. 1905.

16. Any under sheriff appointed under this Act shall perform the duties of his office, and act in the name of the high sheriff as heretofore, provided that if and whenever the office of high sheriff is vacant it shall be lawful for the under sheriff of the county in which such vacancy exists, and, notwithstanding such vacancy, to perform such duties and to act in his own name as if he were the high sheriff. The high sheriff shall not be liable for any act or thing done or omitted to be done by or under the direction of any under sheriff appointed in pursuance of this Act, but such under sheriff shall be and remain liable for the same to the same extent and in the same manner as the high sheriff would have been liable if this Act had not passed.

Under sheriff to act in name of and be under same liability as high sheriff was heretofore.

17. A clerk to each under sheriff shall be appointed to assist him in the discharge of his duties as under sheriff during such periods and subject to such regulations as may from time to time be prescribed by rules or orders to be made as herein-after provided. Every such appointment shall be made as follows:—

Clerk to under sheriff.

- (a) The appointment shall be made and determined by the under sheriff :
- (b) Every clerk appointed under this Act shall be paid out of moneys to be from time to time provided by Parliament, such salary and remuneration as the Treasury, with the concurrence of the Lord Chancellor, shall direct, having regard to the duties of the office.

18. Every person discharging the duties of under sheriff shall be empowered by any writing under his hand to appoint a sufficient number of fit and proper persons, not exceeding such number as shall be from time to time approved by the county court judge, to be sheriff's officers to assist him, and at his pleasure to dismiss all or any of them and to appoint others in their place, and every bailiff so appointed may be suspended or dismissed by any of the judges of His Majesty's High Court of Justice in Ireland or by the county court judge. Every sheriff's officer so appointed may serve or execute any process which by any Act passed or to be passed is directed to be served or executed by the sheriff, and every sheriff's officer so appointed shall receive, in addition to the fees and allowances heretofore made and payable to bailiffs for

Appointment of bailiffs.

A.D. 1905. *service and execution of process, such salary as the Treasury may, with the sanction of the Lord Chancellor, fix. Such salary shall be provided and paid in the same manner as the salaries paid to officers for the service of civil bill processes are now provided and paid.*

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Under sheriff
to have
benefit
of Public
Authorities
Protection
Act, 1893.

19. Every under sheriff appointed in pursuance of this Act shall, in respect of any act done or omitted to be done or any neglect or default by him as such under sheriff, be entitled to the benefit of the provisions of the Public Authorities Protection Act, 1893.

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20. The Treasury, with the concurrence of the Lord Chancellor, may make such rules as may seem fit for regulating the use of the stamps by which any moneys under this Act are to be taken, and for prescribing the application thereof to any writ or civil bill decree, and for ensuring the proper cancellation and for keeping accounts of such stamps.

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May be
appointed to
more
counties than
one.

21. It shall be lawful for the lord lieutenant as vacancies arise in the office of under sheriffs of counties or counties of towns or cities to appoint the same person to be under sheriff of any two or more such counties or counties of towns or cities.

20

Power to
make rules.

22. The lord lieutenant in council shall have power to make such rules and regulations as may from time to time be necessary for the purpose of carrying out this Act, and shall have power to alter or amend the same from time to time, and such rules and regulations shall have the effect of an Act of Parliament.

25

Short title
and com-
mencement
of Act.

23. This Act shall come into operation on the first day of December one thousand nine hundred and five, and may be cited as the Under Sheriffs (Ireland) Act, 1905.

Extent of
Act.

24. This Act shall only extend to Ireland.

Under Sheriffs (Ireland).

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B I L L

To regulate the appointment, duties,
and remuneration of Under Sheriffs
in Ireland.

Presented by Mr. John Gordon,

supported by

*Mr. Lonsdale, Mr. T. L. Corbett,
and Mr. Charles Craig.*

*Ordered, by The House of Commons, to be Printed,
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[Bill 236.]